SANITARY LEGISLATION.

COURT DECISIONS.

NEW YORK—CITY COURT OF BUFFALO.

Cold Storage—New York Law Prohibiting Cold Storage of Food for More than 10 Months Held Unconstitutional.

PEOPLE *v.* MCFALL. PEOPLE *v.* TUTTLE. (Jan. 17, 1916.)

Section 337 of the public health law of the State of New York prohibits the cold storage of foodstuffs for more than 10 months. The court decided that this law was not necessary for the protection of the public health and that it was unconstitutional.

The defendants were charged by an inspector of the health department with violating section 337 [1] of the public-health law of the State of New York (ch. 414, Laws 1914) which prohibits the keeping of foodstuffs in cold storage longer than 10 months.

The defense contended (1) that the law had not been violated because part of the 10 months during which the foodstuffs (poultry) had been kept in storage had elapsed before the law was passed; and (2) that the law was unconstitutional.

The court sustained both contentions, holding that the section "is not necessary to protect the health of the public. The other sections of the law, namely, 338 and 338A give the health commissioner complete power of supervision and inspection and the power to destroy food that is unwholesome. What more is necessary? * * * The section in question must be declared unconstitutional because its real purport is not to protect the health of the people by seeing that unwholesome food products are not put on the market, but its real reason for being is to force upon the market any products that any person may have in cold storage after a definite length of time and thus force the owner thereof to sell when the market is unfavorable, and generally at a loss."

Referring to the case of People *v.* Finkelstein (Public Health Reports, Oct. 8, 1915, p. 3042; Reprint No. 342, p. 119), the court said: "I think the facts in the Finkelstein case, as shown by the opinion, can properly be distinguished from the facts in these cases at bar, and that I may properly arrive at a different conclusion without doing violence to that opinion."

The cases are reported in 158 New York Supplement, page 974.

UNITED STATES CIRCUIT COURT OF APPEALS, NINTH CIRCUIT.

Typhoid Fever—The Contracting of Typhoid Fever from Drinking Water Held to be an Accident.

ÆTNA LIFE INSURANCE CO. *v.* PORTLAND GAS & COKE CO. (Feb. 7, 1916.)

The contracting of typhoid fever by employees as the result of drinking impure water furnished by the employer is an accident arising out of the conduct of the business.

The defendant, an insurance company, issued a "contractor's employers' liability policy" insuring the plaintiff against expense resulting from claims for damages on account of bodily injuries accidentally suffered by its employees by reason of the business in which the plaintiff was engaged. Employees of the plaintiff contracted typhoid fever from drinking water furnished to them by the plaintiff. The court held that this was an accidental injury within the terms of the policy and that the insurance company was liable.

[229 Federal Reporter, 552.]

Ross, Circuit Judge. The defendant in error, Gas & Coke Co., being engaged in the construction of a gas plant on its property adjoining the Government moorings in Multnomah County, Oreg., and having employed in the work a large number of men,

[1] Reprint from the Public Health Reports No. 279, p. 132.